

M E M O R A N D U M

DATE: September 11, 2017
TO: Zoning Review Office
FROM: Office of Administrative Hearings
RE: Case No. 2017-0338-SPHA – Appeal Period Expired

The appeal period for the above-referenced case expired on September 8, 2017. There being no appeal filed, the subject file is ready for return to the Zoning Review Office and is placed in the 'pick up box.'

c: ✓ Case File
Office of Administrative Hearings

IN RE: **PETITIONS FOR SPECIAL HEARING *
AND VARIANCE**

(7923, 7925 and 7927 Belair Road) *
14th Election District *
5th Council District *

KIMCO Realty Corporation *
Legal Owner *
Petitioner *

BEFORE THE

OFFICE OF

ADMINISTRATIVE HEARINGS

FOR BALTIMORE COUNTY

Case No. 2017-0338-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of KIMCO Realty Corporation, legal owner ("Petitioner"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") as follows: (1) to permit continuance of 3 existing pad sites; and (2) to amend prior zoning orders and previously approved plans if deemed necessary.

In addition, a Petition for Variance seeks: (1) To permit two (2) freestanding enterprise signs along the site frontage in lieu of the permitted one (1) per frontage (existing pad #2); (2) To permit a freestanding enterprise sign with a maximum size of 195 sq. ft. in lieu of the permitted 75 sq. ft. (existing pad #1); (3) To permit wall mounted enterprise signs with a total square footage each of up to 4.55 times the length of the wall to which the sign is affixed converted to square footage in lieu of the permitted two (2) times the length of the wall converted to square footage (shopping center and fuel kiosk); (4) To permit two (2) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall-mounted sign (Weis Markets); (5) To permit ten (10) wall mounted enterprise signs affixed to a wall without an exterior customer

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Date 8/9/17

By Sen

entrance. (signs L-U); (6) To permit a freestanding enterprise sign with a height of 45 ft. in lieu of the permitted 25 ft. (existing pad #1); (7) To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (Salvo Auto Parts); (8) To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (New Samys Liquor); (9) To permit 53 off street parking spaces in lieu of the required 91 off-street parking spaces (existing pad #2); and (10) To permit 690 off-street parking spaces in lieu of the required 766 off-street parking spaces (shopping center). A 5- sheet site plan (with signage detail) was marked and accepted into evidence as Petitioner's Exhibit 1.

Professional Engineer Michael Gessell appeared in support of the requests. Jennifer R. Busse, Esq. represented the Petitioner. Two neighbors attended the hearing to obtain additional information about the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

The subject property is approximately 18.37 acres in size and split-zoned BR, BL and DR 5.5. The site is improved with a large strip shopping center, and along the periphery of the property are "pad sites" occupied by a fuel service station, restaurants and other retail stores. The center is being renovated, and the primary purpose of the petition is to "legitimize" existing signage. The only new signage proposed is a freestanding joint identification sign at the entrance to the center (which would replace an existing freestanding enterprise sign for the former K-Mart store) and two wall-mounted signs on the front façade of the Weis grocery store.

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SPECIAL HEARING

The petition for special hearing seeks confirmation of three existing pad sites along the Belair Road frontage. These sites are occupied by Mr. Tire, Ihop restaurant and McDonalds. The DOP did not object to the special hearing request, and based on a review of the site plan I believe these three sites are far removed from the strip center stores and can be accurately identified as pad sites.

Part of the difficulty in making such a determination is that the zoning regulations do not define "pad site." In Case No. 2015-0062-SPH, the zoning review office submitted a memorandum which stated the "pad site" definition was removed years ago from the B.C.Z.R. The only references to "pad site" are found in Section 259 of the B.C.Z.R., which concerns the Md. Route 43 overlay district. The Regulations state "[f]reestanding enterprise and freestanding joint identification signs are not permitted on individual pad sites unless the signage is an existing permitted use." B.C.Z.R. §259.9.D.1. Under familiar principles of statutory construction, the implication is that such signage is permitted on pad sites not located in the Route 43 overlay district. And that is also consistent with the long-standing policy of the zoning office, which permits an owner to seek special hearing relief to approve a sign on a pad site.

VARIANCES

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

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Cromwell v. Ward, 102 Md. App. 691 (1995).

The property has an irregular shape and there is a significant grade change at the front of the site. As such it is unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to retain the existing signage. Finally, I find that the variances can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the lack of community and/or Baltimore County opposition.

In its ZAC comment, the DOP indicated it did not oppose the relief requested in the petition for a special hearing; i.e., that three pad sites exist on this property. But that agency also stated it opposed freestanding signs for the Ihop restaurant and Mr. Tire store. But, as noted above, county policy permits a freestanding enterprise sign to be erected on a pad site.

THEREFORE, IT IS ORDERED this 9th day of **August, 2017**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."): (1) to permit continuance of 3 existing pad sites; and (2) to amend prior zoning orders and previously approved plans, in accordance with the terms of this order, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance: (1) To permit two (2) freestanding enterprise signs along the site frontage in lieu of the permitted one (1) per frontage (existing pad #2); (2) To permit a freestanding enterprise sign with a maximum size of 195 sq. ft. in lieu of the permitted 75 sq. ft. (existing pad #1); (3) To permit wall mounted enterprise signs with a total square footage each of up to 4.55 times the length of the wall to which the sign is affixed converted to square footage in lieu of the permitted two (2) times the length of the wall converted to square footage (shopping center and fuel kiosk); (4) To permit two (2) wall

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mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (Weis Markets); (5) To permit ten (10) wall mounted enterprise signs affixed to a wall without an exterior customer entrance. (signs L U); (6) To permit a freestanding enterprise sign with a height of 45 ft. in lieu of the permitted 25 ft. (existing pad #1); (7) To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (Salvo Auto Parts); (8) To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign (New Samys Liquor); (9) To permit 53 off street parking spaces in lieu of the required 91 off street parking spaces (existing pad #2); and (10) To permit 690 off street parking spaces in lieu of the required 766 off street parking spaces (shopping center), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. No signage shall be permitted along the Fitch Avenue frontage at the site.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:slh

ORDER RECEIVED FOR FILING

Date 8/9/17

By slh



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address 7923, 7925, and 7927 Belair Road which is presently zoned BR/BL and DR5.5
 Deed References: 19892/00329 10 Digit Tax Account # 1 9 0 0 0 0 1 4 0 7
 Property Owner(s) Printed Name(s) KIMCO Realty Corporation

(SELECT THE HEARING(S) BY MARKING **X** AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

1. X a **Special Hearing** under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

see attached

2. a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. X a **Variance** from Section(s)

PLEASE SEE ATTACHED

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
 (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

TO BE PRESENTED AT HEARING

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

N/A

Name - Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

Jennifer R. Busse, Esquire

Name- Type or Print

Signature

Whiteford, Taylor & Preston

1 W. Pennsylvania Ave., Ste. 300, Towson MD

Mailing Address

City

State

21204 /410-832-2077/ jbusse@wtplaw.com

Zip Code

Telephone #

Email Address

Legal Owners (Petitioners):

Mike Ogden, KIMCO Realty Corporation

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

1954 Greenspring Drive, Suite 330, Timonium, MD

Mailing Address

City

State

21093/ (410) 427-4478/ MOgden@kimcorealty.com

Zip Code

Telephone #

Email Address

Representative to be contacted:

Jennifer R. Busse, Esquire

Name - Type or Print

Signature

Whiteford, Taylor & Preston

1 W. Pennsylvania Ave., Ste. 300, Towson MD

Mailing Address

City

State

21204 / 410-832-2077 / jbusse@wtplaw.com

Zip Code

Telephone #

Email Address

CASE NUMBER 2017-0338-SPHA Filing Date 6/16/2017

Do Not Schedule Dates: _____ Reviewer JR

7923, 7925, and 7927 Belair Road

- 447370v2

2017-0338-SPHA



2017-0338-SPHA

ZONING DESCRIPTION
TAX MAP 81, PARCEL 639
THE LAND OF
FP SUB, LLC.
LIBER 19892 FOLIO 329
14TH ELECTION DISTRICT
BALTIMORE COUNTY, MD

BEGINNING AT A POINT ON THE EASTERLY RIGHT-OF-WAY LIMITS OF BELAIR ROAD (U.S. ROUTE 1) (VARIABLE WIDTH RIGHT-OF-WAY), WHICH IS 0 FEET SOUTH OF THE INTERSECTION OF SAID BELAIR ROAD (U.S. ROUTE 1) AND ROSSVILLE BOULEVARD (VARIABLE WIDTH RIGHT-OF-WAY), THENCE DEPARTING SAID SOUTHERLY RIGHT-OF-WAY LIMITS AND WITH THE DIVISION LINE BETWEEN THE ROSSVILLE BOULEVARD RIGHT-OF-WAY ON THE NORTH AND THE LAND OF FP SUB, LLC. (LIBER 19892 FOLIO 329) ON THE SOUTH;

1. SOUTH 50 DEGREES – 03 MINUTES – 11 SECONDS EAST, 58.99 FEET TO A POINT, THENCE;
2. CONTINUING 70.95 FEET ALONG THE ARC OF CURVE TO THE LEFT, HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 16 DEGREES – 15 MINUTES – 36 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 58 DEGREES – 11 MINUTES – 00 SECONDS EAST, 70.71 FEET TO A POINT, THENCE;
3. CONTINUING 70.95 FEET ALONG THE ARC OF CURVE TO THE RIGHT, HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 16 DEGREES – 15 MINUTES – 38 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 58 DEGREES – 10 MINUTES – 59 SECONDS EAST, 70.71 FEET TO A POINT, THENCE;
4. CONTINUING SOUTH 50 DEGREES – 03 MINUTE – 11 SECONDS EAST, 782.52 FEET TO A POINT, THENCE;
5. CONTINUING SOUTH 39 DEGREES – 56 MINUTES – 49 SECONDS WEST, 500.00 FEET TO A POINT, THENCE;
6. CONTINUING SOUTH 02 DEGREES – 13 MINUTES – 37 SECONDS EAST, 59.79 FEET TO A POINT, THENCE;
7. CONTINUING SOUTH 29 DEGREES – 36 MINUTES – 51 SECONDS EAST, 214.50 FEET TO A POINT, THENCE;
8. CONTINUING SOUTH 15 DEGREES – 55 MINUTES – 04 SECONDS WEST, 170.90 FEET TO A POINT, THENCE;
9. CONTINUING NORTH 72 DEGREES – 38 MINUTES – 06 SECONDS WEST, 369.86 FEET TO A POINT, THENCE;
10. CONTINUING 167.96 FEET ALONG THE ARC OF CURVE TO THE RIGHT, HAVING A RADIUS OF 970.00 FEET, A CENTRAL ANGLE OF 09 DEGREES – 55 MINUTES – 16 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 67 DEGREES – 40 MINUTES – 28 SECONDS WEST, 167.75 FEET TO A POINT, THENCE;



11. CONTINUING NORTH 11 DEGREES – 23 MINUTES – 31 SECONDS WEST, 854.73 FEET TO A POINT, THENCE;
12. CONTINUING SOUTH 37 DEGREES – 53 MINUTES – 04 SECONDS WEST, 103.86 FEET TO A POINT, THENCE;
13. CONTINUING NORTH 49 DEGREES – 56 MINUTES – 59 SECONDS WEST, 166.66 FEET TO A POINT, THENCE;
14. CONTINUING 96.30 FEET ALONG THE ARC OF CURVE TO THE LEFT, HAVING A RADIUS OF 11,399.66 FEET, A CENTRAL ANGLE OF 00 DEGREES – 29 MINUTES – 02 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 38 DEGREES – 43 MINUTES – 17 SECONDS EAST, 96.30 FEET TO A POINT, THENCE;
15. CONTINUING NORTH 86 DEGREES – 08 MINUTES – 09 SECONDS EAST, 22.24 FEET TO A POINT, THENCE;
16. CONTINUING SOUTH 49 DEGREES – 59 MINUTES – 22 SECONDS EAST, 13.00 FEET TO A POINT, THENCE;
17. CONTINUING NORTH 40 DEGREES – 00 MINUTES – 38 DEGREES EAST, 71.50 FEET TO A POINT, THENCE;
18. CONTINUING NORTH 12 DEGREES – 36 MINUTES – 33 SECONDS WEST, 21.21 FEET TO A POINT, THENCE;
19. CONTINUING 292.14 FEET ALONG THE ARC OF CURVE TO THE LEFT, HAVING A RADIUS OF 11,386.16 FEET, A CENTRAL ANGLE OF 01 DEGREES – 28 MINUTES – 12 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 40 DEGREES – 11 MINUTES – 59 SECONDS EAST, 292.13 FEET TO A POINT, THENCE;
20. CONTINUING NORTH 83 DEGREES – 35 MINUTES – 28 SECONDS EAST, 40.62 FEET TO THE POINT OF BEGINNING

CONTAINING 800,253 SQUARE FEET OR 18.37 ACRES.





501 N. Calvert St., P.O. Box 1377
Baltimore, Maryland 21278-0001
tel: 410/332-6000
800/829-8000

WE HEREBY CERTIFY, that the annexed advertisement of Order No 5070034

Sold To:

Whiteford-Taylor & Preston LLP - CU00187154
1 W Pennsylvania Ave Ste 300
TOWSON, MD 21204

Bill To:

Whiteford-Taylor & Preston LLP - CU00187154
1 W Pennsylvania Ave Ste 300
TOWSON, MD 21204

Was published in "Jeffersonian", "Bi-Weekly", a newspaper printed and published in Baltimore County on the following dates:

Jul 18, 2017

NOTICE OF ZONING HEARING

The Administrative Law Judge of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 2017-0338-SPH

7923, 7925 & 7927 Belair Road
SE/e side at the southern corner of Rossville Boulevard
14th Election District - 5th Councilmanic District
Legal Owner(s) Kimco Realty Corporation, Mike Ogden

Special Hearing to permit continuance of 3 existing pad sites. To amend prior zoning orders and previously approved plans if deemed necessary. Variance 1. To permit two (2) Freestanding enterprise identification signs along the site frontage in lieu of the permitted one (1) per frontage (existing pad #2). 2. To permit a freestanding enterprise sign with a maximum size of 195 sq. ft. in lieu of the permitted 75 sq. ft. (existing pad #1) 3. To permit wall mounted enterprise signs with a total sq. footage each of up to 4.55 times the length of the wall to which the sign is affixed converted to sq. footage in lieu of the permitted two (2) times the length of the wall converted to square footage. (shopping center and fuel kiosk). 4. To permit two (2) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall-mounted sign (Wels Markets). 5. To permit ten (10) wall mounted enterprise signs affixed to a wall without an exterior customer entrance (signs L-U). 6. To permit a freestanding enterprise sign with a height of 45 ft. in lieu of the permitted 25 ft. (existing pad #1). 7. To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign. (Salvo Auto Parts). 8. To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign. (New Samys Liquor). 9. To permit 53 off street parking spaces in lieu of the required 91 off-street parking spaces (existing pad #2). 10. To permit 690 off-street parking spaces in lieu of the required 766 off-street parking spaces (shopping center).

Hearing: Monday, August 7, 2017 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 7/701 July 18

5070034

The Baltimore Sun Media Group

By *S. Wilkinson*

Legal Advertising

CERTIFICATE OF POSTING

CERTIFICATE OF POSTING

CASE NO: 2017-0338-SPHA

PETITIONER/DEVELOPER

WHITE FORD, TAYLOR, & PRESTON LLP

DATE OF HEARING/CLOSING:

AUGUST 7, 2017

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVENUE

ATTENTION:

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE
PROPERTY AT _____

FITCH AVENUE ENTRANCE

THIS SIGN(S) WERE POSTED ON July 17, 2017
(MONTH, DAY, YEAR)

SINCERELY,

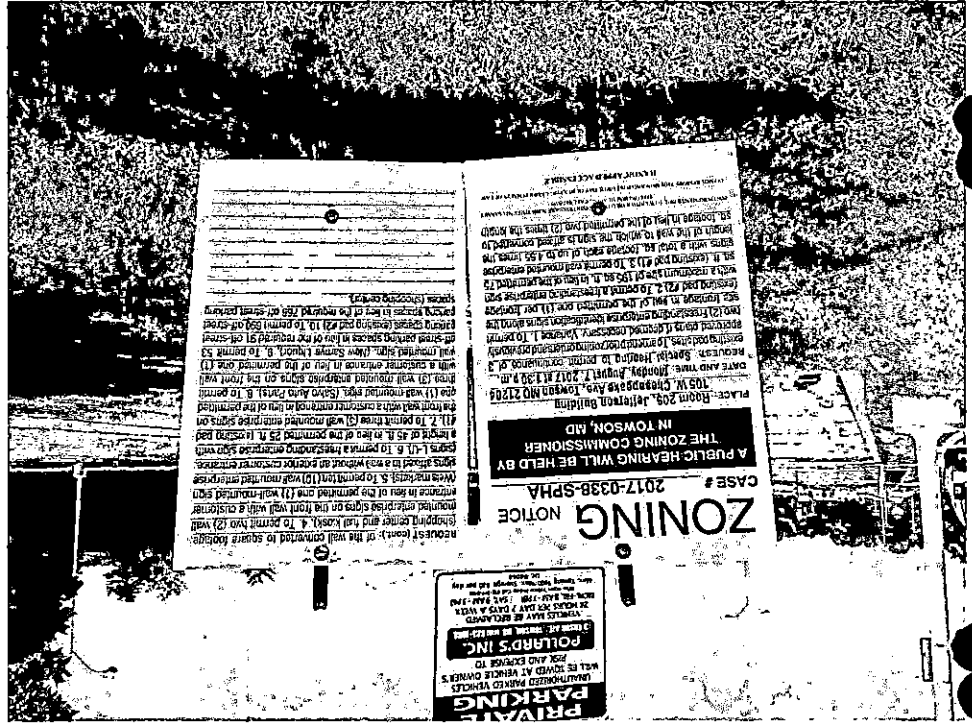
Martin Ogle 7/17/17
SIGNATURE OF SIGN POSTER AND DATE:

MARTIN OGLE
(SIGN POSTER)

9912 MADBROOK
BALTIMORE, MD 21234
PHONE NUMBER: 443-629-3411

FROM AVENUE ESTATE

2/17/17



CERTIFICATE OF POSTING

CERTIFICATE OF POSTING

CASE NO: 2017-0338-SPHA

PETITIONER/DEVELOPER

WHITE FORD, TAYLOR, & PRESTON

DATE OF HEARING/CLOSING:

AUGUST 7, 2017

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVENUE

ATTENTION:

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE
PROPERTY AT

BELAIR RD. ENTRANCE

THIS SIGN(S) WERE POSTED ON

(MONTH, DAY, YEAR)

July 17, 2017

SINCERELY,

Martin Ogle 7/17/17
SIGNATURE OF SIGN POSTER AND DATE:

MARTIN OGLE

(SIGN POSTER)

9912 MADBROOK

BALTIMORE, MD 21234

PHONE NUMBER: 443-629-3411



KEVIN KAMENETZ

County Executive
July 6, 2017

ARNOLD JABLON

Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

NOTICE OF ZONING HEARING

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CASE NUMBER: 2017-0338-SPHA

7923, 7925 & 7927 Belair Road

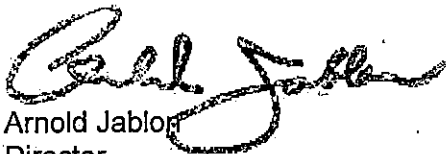
SE/e side at the southern corner of Rossville Boulevard

14th Election District – 5th Councilmanic District

Legal Owners: Kimco Realty Corporation, Mike Ogden

Special Hearing to permit continuance of 3 existing pad sites. To amend prior zoning orders and previously approved plans if deemed necessary. Variance 1. To permit two (2) Freestanding enterprise identification signs along the site frontage in lieu of the permitted one (1) per frontage (existing pad #2) 2. To permit a freestanding enterprise sign with a maximum size of 195 sq. ft. in lieu of the permitted 75 sq. ft. (existing pad #1) 3. To permit wall mounted enterprise signs with a total sq. footage each of up to 4.55 times the length of the wall to which the sign is affixed converted to sq. footage in lieu of the permitted two (2) times the length of the wall converted to square footage. (shopping center and fuel kiosk). 4. To permit two (2) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall-mounted sign (Weis Markets). 5. To permit ten (10) wall mounted enterprise signs affixed to a wall without an exterior customer entrance. (signs L-U). 6. To permit a freestanding enterprise sign with a height of 45 ft. in lieu of the permitted 25 ft. (existing pad #1). 7. To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign. (Salvo Auto Parts). 8. To permit three (3) wall mounted enterprise signs on the front wall with a customer entrance in lieu of the permitted one (1) wall mounted sign. (New Samys Liquor). 9. To permit 53 off street parking spaces in lieu of the required 91 off-street parking spaces (existing pad #2) 10. To permit 690 off-street parking spaces in lieu of the required 766 off-street parking spaces (shopping center).

Hearing: Monday, August 7, 2017 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director

AJ:kl

C: Jennifer Busse, 1 W. Pennsylvania Avenue, Ste. 300, Towson 21204
Mike Ogden, KIMCO, 1954 Greenspring Dr., Ste. 330 Timonium 21093

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JULY 18, 2017.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 18, 2017 Issue - Jeffersonian

Please forward billing to:

Jennifer Busse
Whiteford, Taylor & Preston
One W. Pennsylvania Avenue, Ste. 300
Towson, MD 21204

410-832-2077

NOTICE OF ZONING HEARING

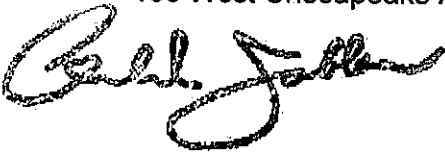
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Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

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(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
AND VARIANCE *
7923, 7925 & 7927 Belair Road; SE/S Belair * OF ADMINISTRATIVE
Road at S corner of Rossville Boulevard *
14th Election & 5th Councilmanic Districts * HEARINGS FOR
Legal Owner(s): KIMCO Realty Corporation *
Petitioner(s) * BALTIMORE COUNTY
* 2017-338-SPHA

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

RECEIVED

JUN 29 2017

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of June, 2017, a copy of the foregoing Entry of Appearance was mailed to Jennifer Busse, Esquire, 1 West Pennsylvania Avenue, Suite 300, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighbor property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the legal owner/petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Case Number: 2017-0338-SPHA
Property Address: 7923, 7925 + 7927 Belair Rd
Property Description: Fullerton Plaza

Legal Owners (Petitioners): Kimco Realty Corp.
Contract Purchaser/Lessee: N/A

PLEASE FORWARD ADVERTISING BILL TO:

Name: Jennifer Busse
Company/Firm (if applicable): WTP
Address: One W. Pennsylvania Ave. Ste. 300
Towson MD 21204

Telephone Number: 410 832-2077

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No 153098

Date: 6/16/17

Rev Sub
Source/ Rev/

Fund	Dept	Unit	Sub Unit	Obj	Sub Obj	Dept Obj	BS Acct	Amount
001	806	0000		6150				1000.00

Total: 1000.00

Rec From: Whitehead, Taylor & Preston, LLP

For: 7923-27 Belvia Rd.

7017-0339-SPHA

DISTRIBUTION

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS ACTUAL TIME NEW
6/19/2017 6/16/2017 10:32:10 1
REG WSO1 WALKIN LJR
>>RECEIPT # 725947 6/16/2017 0FLH
Dept 5 528 ZONING VERIFICATION
CR NO. 153098
Receipt Tot \$1,000.00
\$1,000.00 OK \$1.00 CA
Baltimore County, Maryland

CASHIER'S
VALIDATION



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
*Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections*

August 2, 2017

KIMCO Realty Corporation
Mike Ogden
1954 Greenspring Drive
Suite 330
Timonium MD 21093

RE: Case Number: 2017-0338 SPHA, Address: 7923, 7925 & 7927 Belair Road

Dear Mr. Ogden:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on June 16, 2017. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." The signature is written in a cursive, flowing style.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Jennifer R Busse, Esquire, 1 W Pennsylvania Avenue, Suite 300, Towson MD 21204

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

MDOT
MARYLAND DEPARTMENT
OF TRANSPORTATION

Pete K. Rahn, Secretary
Gregory Slater, Administrator

STATE HIGHWAY
ADMINISTRATION

Date: 6/28/17

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals & Inspections
County Office Building, Room 109
Towson, Maryland 21204

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the Case number referenced below, which was received on 6/28/17. A field inspection and internal review reveals that an entrance onto US 1 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for Variance, Case Number 2017-0338-SHA.

*Special Hearing Variance
Kimco Realty Corporation, Mike Ogden
7923, 7925 & 7927 Belair Road
US 1*

Should you have any questions regarding this matter feel free to contact Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) X 2332 or by email at (rzeller@sha.state.md.us).

Sincerely,



Wendy Wolcott, PLA
Metropolitan District Engineer – District 4
Baltimore & Harford Counties

WW/RAZ

Maryland Department of Transportation
State Highway Administration

320 West Warren Road, Hunt Valley, MD 21030

410.229.2300 | TTY 800.735.2258 | roads.maryland.gov

My telephone number/toll-free number is 866.998.0367

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

RECEIVED

JUL 26 2017

OFFICE OF
ADMINISTRATIVE HEARINGS

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: 7/25/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 17-338

INFORMATION:

Property Address: 7923, 7925, 7927 Belair Road
Petitioner: Mike Ogden, KIMCO Realty Corporation
Zoning: BR, BL, DR 5.5
Requested Action: Special Hearing, Variance

The Department of Planning has reviewed the petition for a special hearing to determine whether or not the Administrative Law Judge should permit the continuance of three existing pad sites, and to amend prior zoning orders and previously approved plans if deemed necessary and the petition for variance to permit relief as listed on the attachment submitted in support of the petition.

A site visit was conducted on July 6, 2017. Fullerton Plaza is designated a Planned Shopping Center and is within the Overlea-Fullerton Commercial Revitalization Area.

The Department supports granting the petitioned zoning relief in part but does not support granting other parts of said petition.

The Department has no objection:

- to the continued existence of the pad sites and to amend prior zoning orders and previously approved plans.
- to variance relief granted to items #3 through #5 and #7 through #10 as listed on the attachment submitted in support of the petition.

The Department does not support:

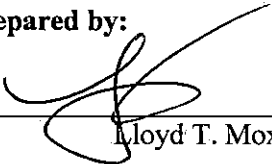
- free standing signs for the three pad sites located at the front of the shopping center and recommends that items #1, #2 and #6 as listed on the attachment submitted in support of the petition not be approved.

This portion of Belair Road exhibits an excessive amount of signage resulting in a cluttered environment along the commercial corridor. BCZR § 450.E states that the existence of excessive signage is contrary to the Master Plan goals of improving quality of commercial corridors including signage through the enhanced control of placement, size, and design of commercial corridor signage. The Department recommends that the center would be better served by an attractive joint identification sign that would list the name of the pad sites as well as the anchor store and other stores located in the interior of the center

and indicate to drivers where to enter the shopping center. The joint identification sign could be attractively incorporated into a landscaped treatment and serve to brand the newly revitalized center.

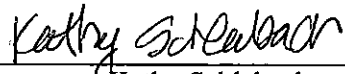
For further information concerning the matters stated herein, please contact Laurie Hay at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

AVA/KS/LTM/ka

c: Laurie Hay
Jennifer R. Busse, Esquire
Office of the Administrative Hearings
People's Counsel for Baltimore County

8-7

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
Sustainability (EPS) - Development Coordination

DATE: June 29, 2017

SUBJECT: DEPS Comment for Zoning Item # 2017-0338-SPHA
Address 7923 Belair Road
(Kimco Realty Corporation
Property)

Zoning Advisory Committee Meeting of **July 3, 2017**.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Steve Ford Date: 6-29-2017

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

FROM: *Vice*
Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For July 03, 2017
Item No. 2017-0338

DATE: July 18, 2017

The Bureau of Development Plans Review has reviewed the subject zoning items and we have the following comments.

If Zoning Relief is granted, Landscape and Lighting Plans are required per the requirements of the Landscape Manual

* * * * *

VKD:CEN
cc:file
ZAC-ITEM NO 17-0338-07032017.doc

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE MEMORANDUM

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: 7/25/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 17-338

INFORMATION:

Property Address: 7923, 7925, 7927 Belair Road
Petitioner: Mike Ogden, KIMCO Realty Corporation
Zoning: BR, BL, DR 5.5
Requested Action: Special Hearing, Variance

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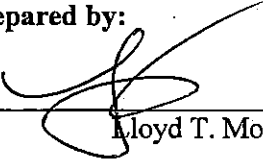
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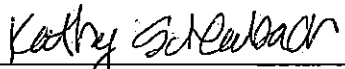
For further information concerning the matters stated herein, please contact Laurie Hay at 410-887-3480.

Prepared by:



Lloyd T. Moxley

Division Chief:



Kathy Schlabach

AVA/KS/LTM/ka

c: Laurie Hay
Jennifer R. Busse, Esquire
Office of the Administrative Hearings
People's Counsel for Baltimore County

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and
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DATE: June 29, 2017

SUBJECT: DEPS Comment for Zoning Item # 2017-0338-SPHA
Address 7923 Belair Road
(Kimco Realty Corporation
Property)

Zoning Advisory Committee Meeting of **July 3, 2017**.

X The Department of Environmental Protection and Sustainability has no
comment on the above-referenced zoning item.

Reviewer: Steve Ford Date: 6-29-2017

CERTIFICATE OF POSTING

CERTIFICATE OF POSTING

CASE NO: 2017-0338-SPHA

PETITIONER/DEVELOPER

WHITEFORD, TAYLOR, & PRESTON LLP

DATE OF HEARING/CLOSING:

AUGUST 7, 2017

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVENUE

ATTENTION:

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE
NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE
PROPERTY AT

ROSSVILLE BLVD. ENTRANCE

THIS SIGN(S) WERE POSTED ON
(MONTH, DAY, YEAR)

July 17, 2017

SINCERELY,

Martin Ogle 7/17/17
SIGNATURE OF SIGN POSTER AND DATE:

MARTIN OGLE
(SIGN POSTER)

9912 MADBROOK
BALTIMORE, MD 21234
PHONE NUMBER: 443-629-3411

CASE NAME Kimco - Fullerton
CASE NUMBER 2017-0338-SHA
DATE 8/7/17

NAME	ADDRESS	CITY, STATE, ZIP	E - MAIL
------	---------	------------------	----------

[illegible]

1954

[illegible]

CASE NAME

CASE NUMBER

DATE _____

Pinco - Fullerton
2017-0338- SATTA
8/7/17

NAME _____

ADDRESS

CITY, STATE, ZIP

E - MAIL

[illegible]

C H E C K L I S T

<u>Comment Received</u>	<u>Department</u>	<u>Support/Oppose/ Conditions/ Comments/ No Comment</u>
<u>7/18</u>	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	<u>Comment</u>
<u>6/29</u>	DEPS (if not received, date e-mail sent _____)	<u>no comment</u>
_____	FIRE DEPARTMENT	_____
<u>7/26</u>	PLANNING (if not received, date e-mail sent _____)	<u>Comment</u>
<u>6/28</u>	STATE HIGHWAY ADMINISTRATION	<u>no Ob</u>
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. 2017-0241-SPHA)

NEWSPAPER ADVERTISEMENT Date: 7/18/17

SIGN POSTING Date: 7/17/17 by Ogle

PEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map			View GroundRent Redemption				View GroundRent Registration			
Account Identifier:			District - 14 Account Number - 1900001407							
Owner Information										
Owner Name:			FP SUB LLC				Use:		COMMERCIAL	
Mailing Address:			SUITE 100 3333 NEW HYDE PARK RD NEW HYDE PARK NY 11042-1205				Principal Residence:		NO	
							Deed Reference:		/19892/ 00329	
Location & Structure Information										
Premises Address:			7927 BELAIR RD BALTIMORE 21236-				Legal Description:		18.371 AC	
									PUTTY HILL	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:	
0081	0011	0639		0000			1	2016	Plat Ref:	0044/0116
Special Tax Areas:						Town:		NONE		
						Ad Valorem:				
						Tax Class:				
Primary Structure Built			Above Grade Living Area		Finished Basement Area		Property Land Area		County Use	
			150241				18.3600 AC		14	
Stories	Basement	Type			Exterior	Full/Half Bath	Garage	Last Major Renovation		
		SHOPPING CENTER / NEIGHBORHOOD								
Value Information										
			Base Value		Value		Phase-in Assessments			
					As of 01/01/2016		As of 07/01/2016		As of 07/01/2017	
Land:			6,764,400		6,764,400					
Improvements			9,842,400		6,870,600					
Total:			16,606,800		13,635,000		13,635,000		13,635,000	
Preferential Land:			0						0	
Transfer Information										
Seller: FULLERTON PLAZA LLC				Date: 04/14/2004				Price: \$10,799,357		
Type: ARMS LENGTH IMPROVED				Deed1: /19892/ 00329				Deed2:		
Seller: MORTGAGES GROWTH INVESTORS				Date: 03/03/2000				Price: \$8,196,250		
Type: ARMS LENGTH IMPROVED				Deed1: /14337/ 00680				Deed2:		
Seller: AETNA LIFE INSUR ANCE COMPANY				Date: 08/05/1987				Price: \$7,600,000		
Type: ARMS LENGTH IMPROVED				Deed1: /07631/ 00596				Deed2:		
Exemption Information										
Partial Exempt Assessments:			Class		07/01/2016		07/01/2017			
County:			000		0.00					
State:			000		0.00					
Municipal:			000		0.00 0.00		0.00 0.00			
Tax Exempt:				Special Tax Recapture:						
Exempt Class:				NONE						
Homestead Application Information										

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(7923, 7925 & 7927 Belair Road)	*	OFFICE OF
14 th Election District		
5 th Council District	*	ADMINISTRATIVE HEARINGS
FP SUB LLC		
Legal Owner	*	FOR BALTIMORE COUNTY
Weis Markets, Inc., Lessee		
Petitioners	*	Case No. 2017-0241-SPHA

* * * * *

CORRECTED OPINION AND ORDER

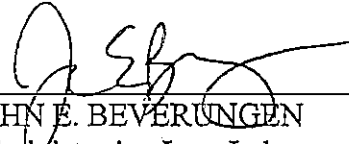
By Order dated May 3, 2017 Petitioners were granted in the above case special hearing and variance relief. On May 17, 2017, Michael Pierce filed with the Office of Administrative Hearings a letter explaining an error had been made in that order; i.e., the order cited a superseded provision in the zoning regulations. Mr. Pierce requested a revised order be issued to correct the erroneous reference to B.C.Z.R. §405.2. Having reviewed that correspondence I agree the May 3, 2017 Order should be corrected to read as follows:

THEREFORE, IT IS ORDERED this 3rd day of May, 2017, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R") to permit a fuel service station canopy sign with electronic changeable copy components pursuant to B.C.Z.R. §450, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance from B.C.Z.R. §405.2 to permit a fuel service station in a planned shopping center to have fuel servicing spaces within 85 feet of a D.R., R.C. or R.A.E. zoned property, in lieu of the required 100 feet, be and is hereby GRANTED.

All other terms and conditions set forth in the original Order dated May 3, 2017 shall continue in full force and effect.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

A handwritten signature in black ink, appearing to read 'JEB', is written over a horizontal line.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(7923, 7925 & 7927 Belair Road)	*	OFFICE OF
14 th Election District		
5 th Council District	*	ADMINISTRATIVE HEARINGS
FP SUB LLC		
Legal Owner	*	FOR BALTIMORE COUNTY
Weis Markets, Inc., Lessee		
Petitioners	*	Case No. 2017-0241-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of FP SUB LLC, legal owner and Weis Markets, lessee ("Petitioners"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R) to permit a fuel service station canopy sign with electronic changeable copy components pursuant to B.C.Z.R. §450. In addition, a Petition for Variance seeks to permit a fuel service station in a planned shopping center to be located on a lot that is within 0 ft. of a residentially zoned property in lieu of the required 100 ft. A site plan was marked and accepted into evidence as Petitioners' Exhibit 5.

Professional engineer Michael Gesell and Jack O'Hara & Alex Ororbia, Sr. (from Weis Markets) appeared in support of the requests. Caroline L. Hecker, Esq. and Justin Williams, Esq. represented the Petitioners. Two neighbors attended the hearing to express certain concerns with the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Bureau of Development Plans Review (DPR), noting landscape and lighting plans would be required.

The subject property is approximately 18.37 acres in size and is primarily zoned BR with small slivers of BL and DR 5.5. A large shopping center (166,322 sq. ft.) known as Fullerton Plaza was

constructed at the site in the 1970s. The former “anchor” tenant (K-Mart) closed its doors about 1 ½ years ago, and Weis Markets proposes to open a large (approximately 60,000 sq. ft.) grocery store in that space. As it has in many other locations, Weis proposes to open a fuel service station as an ancillary use to the grocery store. A fuel service station is permitted by right in the BR zone, since the DOP confirmed in a memorandum dated July 6, 2015 (See Exhibit 3) the Fullerton Plaza qualifies as a “planned shopping center.” B.C.Z.R. §405.2.A.1.

SPECIAL HEARING

The petition for special hearing concerns the request to display gasoline price information on the service station canopy. Similar requests have been made and approved in other zoning cases, and I do not believe the signage would have any adverse impact upon the community. As Petitioners note, state law requires retailers to display fuel price information, and also exempts such signage from the requirements of local zoning laws concerning the size and number of such signs permitted. As such, the special hearing request will be granted.

VARIANCE

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

Petitioners have met this test. The large site is irregularly shaped and was found to be “unique” in several prior zoning cases. See Case Nos. 1981-0130-A, 1982-0089-A and 2011-0343-A. As such a similar finding is appropriate in this case. Petitioners would experience practical difficulty if the

regulations were strictly interpreted because they would be unable to construct the fuel service station, which is permitted by right under the Regulations.

Though the variance request seeks a 0 ft. setback from a residential zone boundary, this is due to the wording of the applicable regulation (B.C.Z.R. §405.2) which states "no part of the lot [may be] within 100 feet of a residentially zoned property." To be conservative Petitioners considered the "lot" to be the entire shopping center parcel, which has for many years directly abutted a residential zone. The reality is the service station itself will be over 40 ft. from the residential zone while the fuel pumps will be located at least 98 ft. from the residential zone boundary. Finally, certain conditions will be included in the order below to help ensure that granting the request will not have a detrimental impact upon the community.

THEREFORE, IT IS ORDERED this 3rd day of May, 2017, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit a fuel service station canopy sign with electronic changeable copy components pursuant to B.C.Z.R. §450, be and is hereby GRANTED.

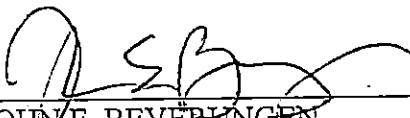
IT IS FURTHER ORDERED that the Petition for Variance to permit a fuel service station in a planned shopping center to be located on a lot that is within 0 ft. of a residentially zoned property in lieu of the required 100 ft., be and is hereby GRANTED.

The relief granted herein shall be subject to and conditioned upon the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioners would be required to return the subject property to its original condition.

2. Prior to issuance of permits Petitioners must submit for approval by the Baltimore County landscape architect landscape and lighting plans for the site.
3. The fuel service station may not have hours of operation which extend beyond those of the Weis grocery store. In other words, the fuel service station must be closed at such times as the grocery store is also closed.
4. Petitioners shall erect a fence no less than 6 feet in height along the boundary to screen the site from nearby dwellings.
5. The fuel service station must turn off all exterior lighting when it is closed for business.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.



JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln

Case No.: 2017-0338-SPHA

Exhibit Sheet

Petitioner/Developer

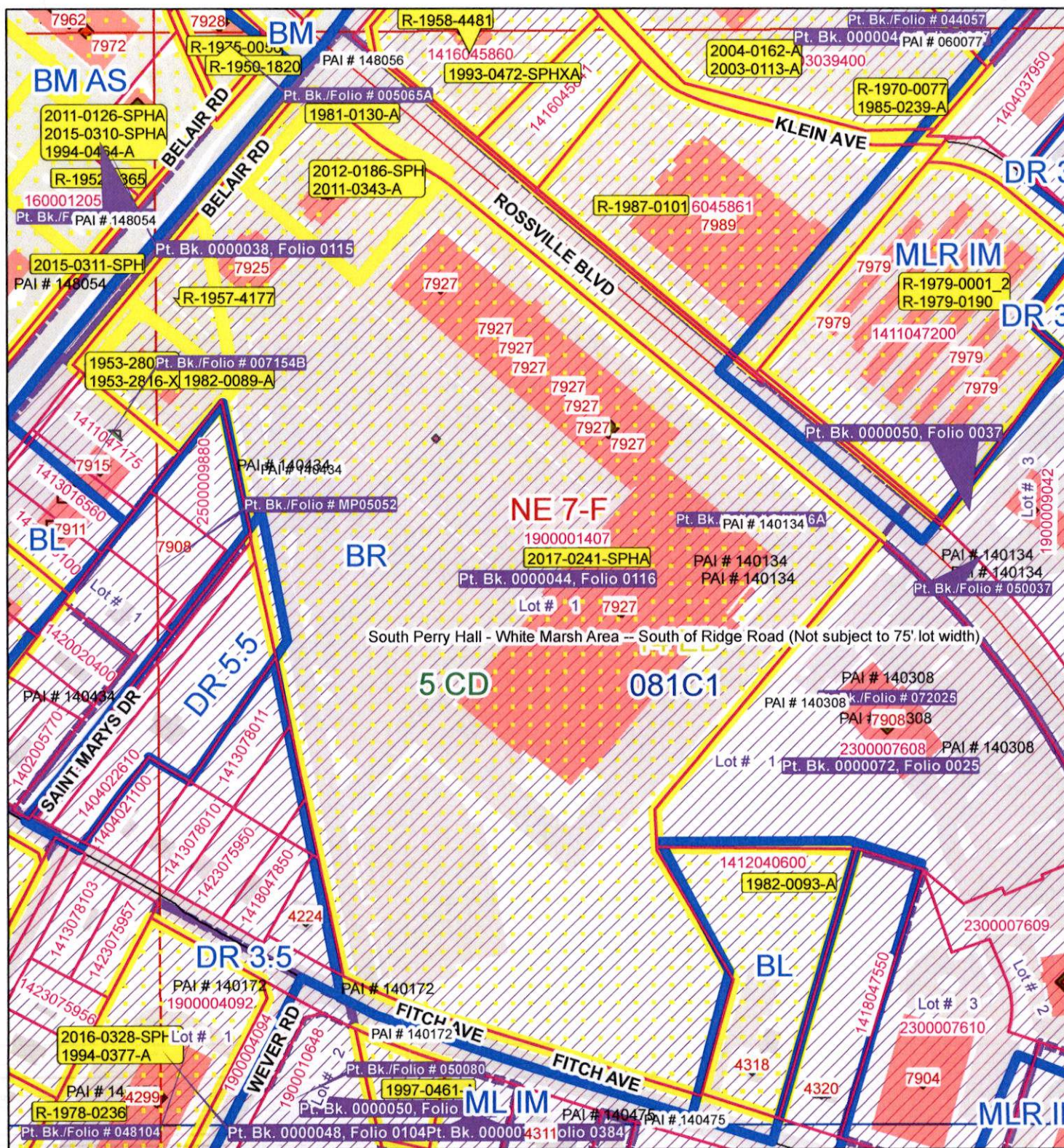
ISW
9-11-17

Protestant

8-9-17
Sen

No. 1	Plan (5 sheets)	
No. 2		
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

7923-2, Belair Road 20107-0338-A



Publication Date: 6/16/2017



Publication Agency: Permits, Approvals & Inspections
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

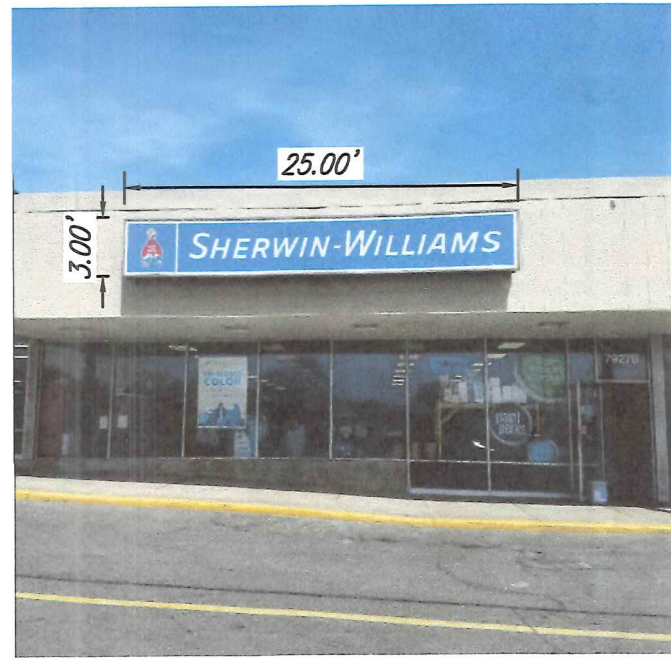


0 55 110 220 330 440 Feet

1 inch = 200 feet



A SALVO = 60.90 S.F.
AUTO = 49.20 S.F.
PARTS = 60.90 S.F.
TOTAL = 171 S.F.



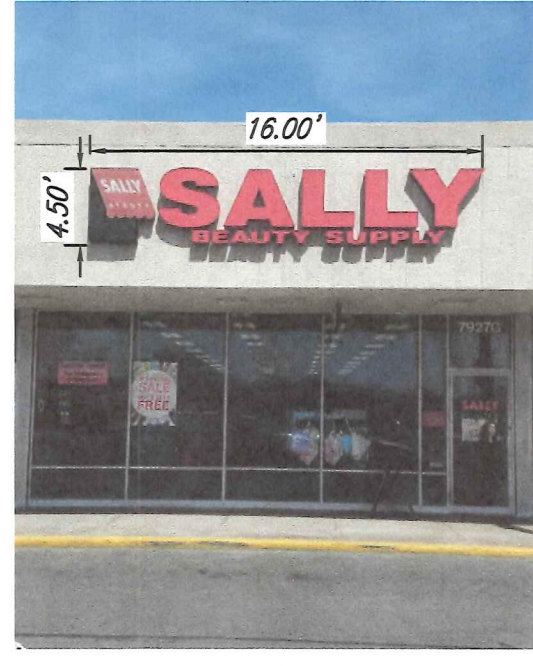
B 75 S.F.



C 76.50 S.F.



D 67.50 S.F.



E 72.00 S.F.



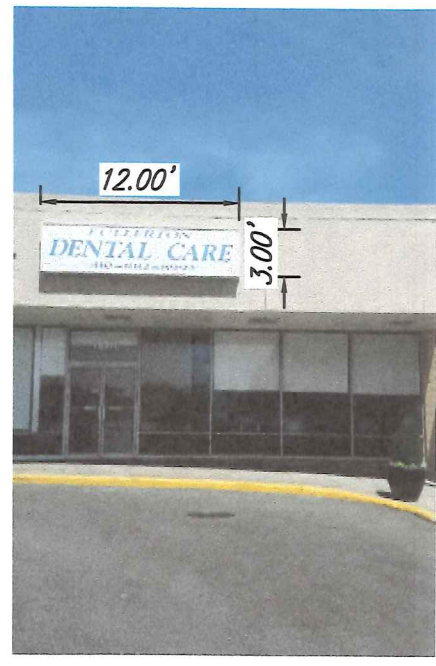
F NEW = 21 S.F.
SAMYS = 30 S.F.
LIQUOR = 33 S.F.
TOTAL = 84 S.F.



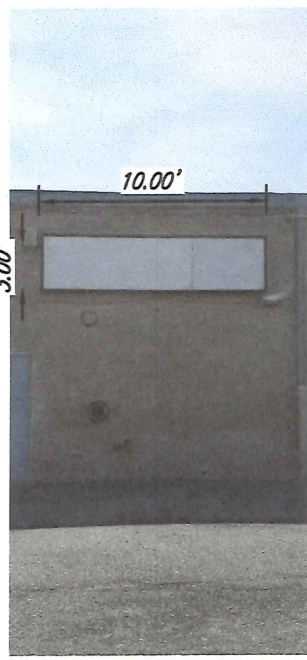
G 30.00 S.F.



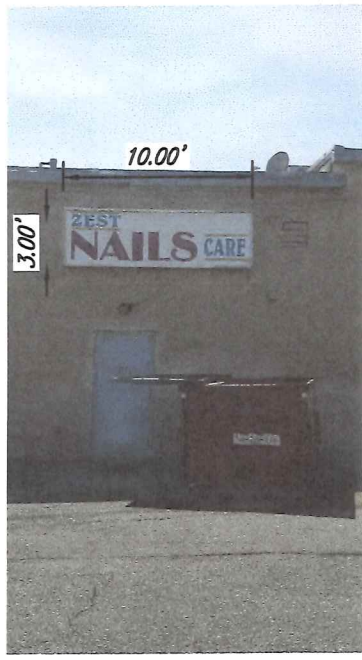
H 60.00 S.F.



I 36 S.F.



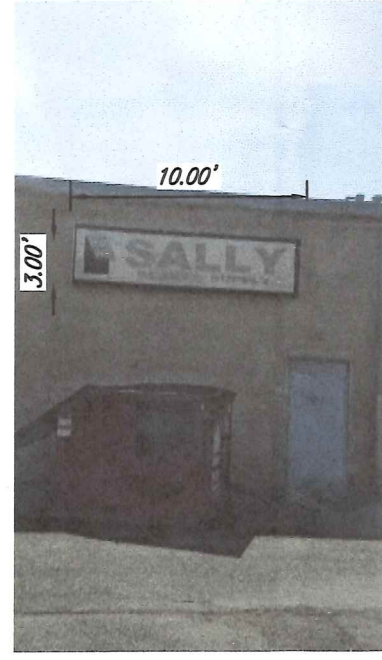
L 30 S.F.



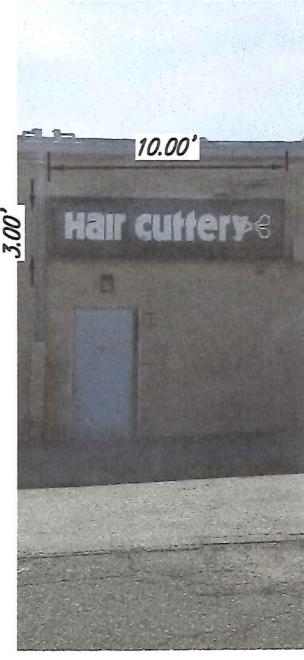
M 30 S.F.



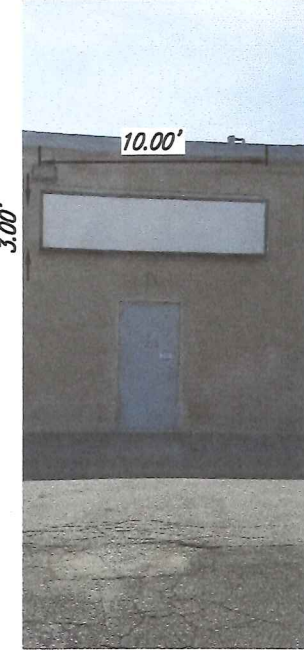
N 30 S.F.



O 30 S.F.



P 30 S.F.



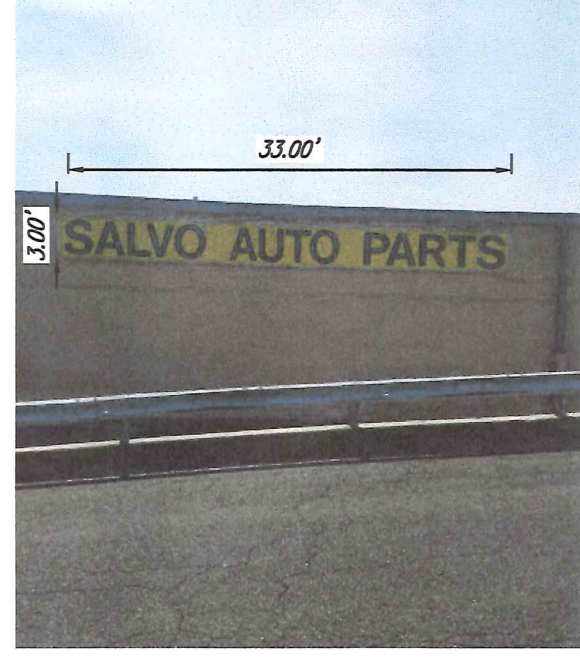
Q 30 S.F.



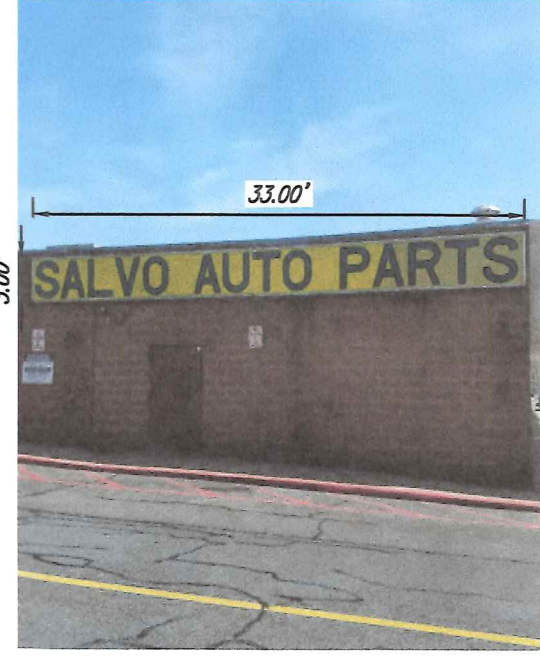
R 69 S.F.



S 30 S.F.



T 99 S.F.



U 99 S.F.



SIGN1 58 S.F.



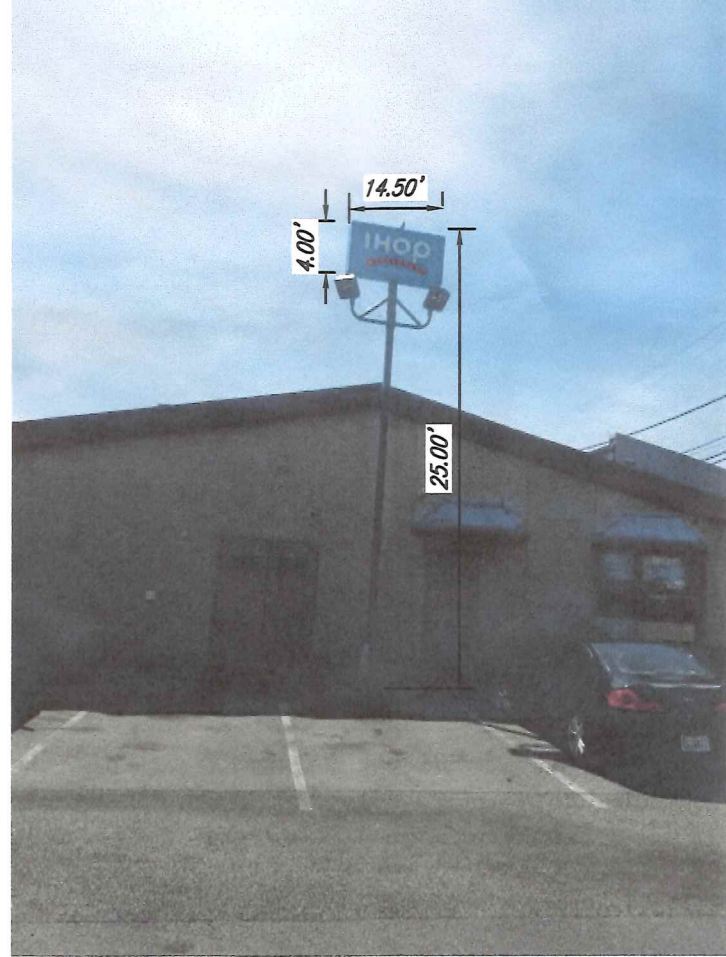
SIGN5 195 S.F.



IH1



IH2 51.75 S.F.



SIGN2 58 S.F.



SIGN4

* SIGN APPROVED UNDER ZONING CASE 2012-0186-S PH



M1

* SIGN APPROVED UNDER ZONING CASE 2011-0343-A

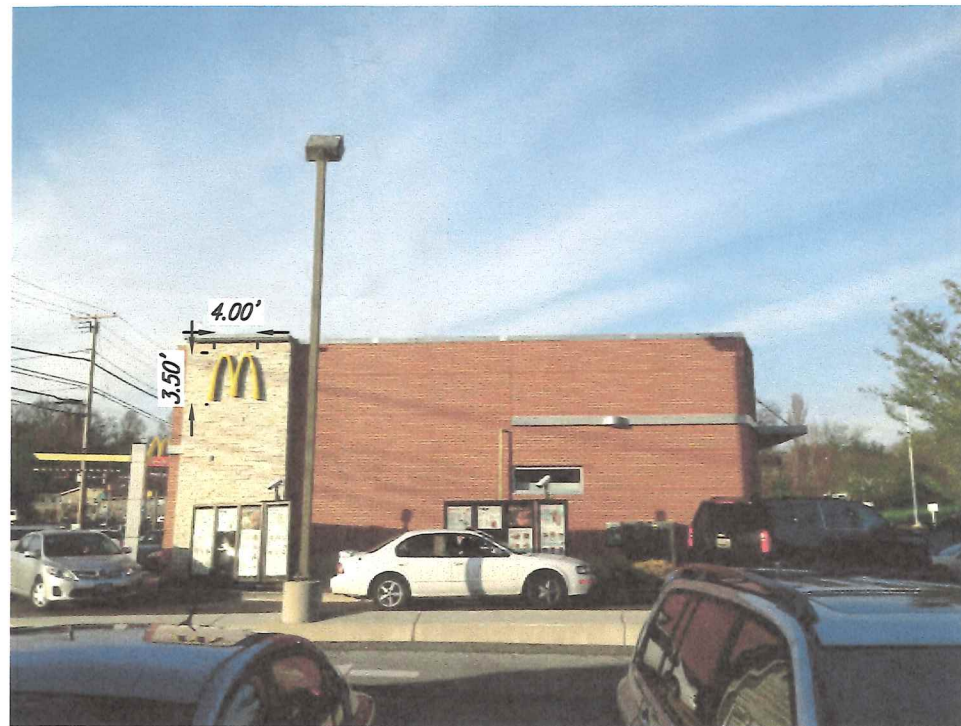
ZONING HISTORY

1953-2807-X: SPECIAL PERMIT FOR AN ADVERTISING STRUCTURE LOCATED AT 7923 BELAIR ROAD WAS GRANTED ON 12/4/53
1953-2816-X: SPECIAL PERMIT TO CONSTRUCT A 12'X25' POSTER PANEL WAS GRANTED ON 12/7/53
R-1957-4177: PETITION FOR ZONING RE-CLASSIFICATION FROM R-6 TO BM WAS GRANTED ON 9/3/57
1981-0130-A: PETITION FOR ZONING VARIANCE TO PERMIT ONE (1) FREESTANDING SIGN WITH A TOTAL SQUARE FOOTAGE OF 60 S.F. IN LIEU OF THE PERMITTED 0 S.F. WAS GRANTED ON 2/11/81
1982-0089-A: PETITION FOR ZONING VARIANCE TO PERMIT A FREESTANDING SIGN WITH A HEIGHT OF NINETEEN (19) FEET IN TOTAL HEIGHT AND AN AREA OF 39.25 S.F. WAS GRANTED ON 3/31/82
2011-0343-A: PETITION OF ZONING VARIANCE TO PERMIT 48 PARKING SPACES IN LIEU OF THE REQUIRED 64 PARKING SPACES; TO PERMIT A DRIVE-THRU LANE TO BLOCK ENTRY TO OR EXIT FROM OFF-STREET PARKING SPACES AND TO CROSS PRINCIPAL PEDESTRIAN ACCESS TO THE RESTAURANT; TO PERMIT EXCLUSION OF A SEPARATE LOADING SPACE; TO PERMIT SIX (6) WALL MOUNTED ENTERPRISE SIGNS ON THE BUILDING FACADES IN LIEU OF THE PERMITTED THREE (3); TO PERMIT A DIRECTIONAL SIGN OF 10.7 FEET IN HEIGHT IN LIEU OF THE PERMITTED 6 FEET; TO PERMIT A DIRECTIONAL SIGN OF 9.7 FEET IN HEIGHT IN LIEU OF THE PERMITTED 6 FEET; TO PERMIT A CANOPY-TYPE DIRECTIONAL SIGN IN LIEU OF THE PERMITTED WALL MOUNTED OR FREE-STANDING SIGN; AND TO PERMIT ERECTION OF THE SIGN ABOVE THE FACE OF THE CANOPY IN LIEU OF ITS ERECTION ON THE FACE OF THE CANOPY WAS GRANTED ON 7/19/11
2012-0186-SPH: SPECIAL HEARING TO APPROVE A FREE STANDING ENTERPRISE SIGN WITH AN ELECTRONIC MESSAGE BOARD ON A PAD SITE WITHIN A SHOPPING CENTER IN ADDITION TO THE PERMITTED SHOPPING CENTER JOINT IDENTIFICATION SIGN WAS GRANTED ON 7/19/11
DRC-2016-00148: LIMITED EXEMPTION UNDER SECTION 32-4-106(B)(8) WAS GRANTED ON 11/22/16
2017-0241-SPHA: SPECIAL HEARING TO PLACE A FUEL PRICE INFORMATION (VIA ELECTRONIC CHANGEABLE COPY SIGN) ON THE SERVICE STATION CANOPY AND VARIANCE TO PERMIT A FUEL SERVICE STATION TO BE LOCATED IN A PLANNED SHOPPING CENTER LOT THAT IS WITHIN 6 FEET OF A RESIDENTIALLY ZONED PROPERTY IN LIEU OF THE REQUIRED 100 FEET WAS GRANTED ON 4/27/17



M2

* SIGN APPROVED UNDER ZONING CASE 2011-0343-A



M3

* SIGN APPROVED UNDER ZONING CASE 2011-0343-A



M4

* SIGN APPROVED UNDER ZONING CASE 2011-0343-A

PARKING TABULATION CHART - SHOPPING CENTER			
(PARKING SPACES REQUIRED BY BCZR SECTION 409.6A)			
USE	GROSS S.F.	PARKING RATE	PARKING SPACES REQUIRED PER SECTION 409.6A
SHOPPING CENTER	152,738	5/1,000 S.F.	764
FUEL SERVICE STATION - MAXIMUM # EMPLOYEES ON LARGEST SHIFT			1
FUEL SERVICE STATION - AIR/VACUUM UNIT			1
TOTAL REQUIRED			766
TOTAL PARKING PROVIDED (INCLUDES 19 ADA SPACES)			690

PARKING TABULATION CHART - EXISTING PAD #2			
(PARKING SPACES REQUIRED BY BCZR SECTION 409.6A)			
USE	GROSS S.F.	PARKING RATE	PARKING SPACES REQUIRED PER SECTION 409.6A
STANDARD RESTAURANT	5,628	16/1,000 S.F.	91
TOTAL REQUIRED			91
TOTAL PARKING PROVIDED			53

PARKING TABULATION CHART - EXISTING PAD #1			
(PARKING SPACES REQUIRED BY BCZR SECTION 409.6A)			
USE	GROSS S.F.	PARKING RATE	PARKING SPACES REQUIRED PER SECTION 409.6A
RETAIL	1,440	5/1,000 S.F.	7.2
SERVICE BAYS	4	3/BAY	12.0
TOTAL REQUIRED			19.2 OR 20
TOTAL PARKING PROVIDED			20

PARKING TABULATION CHART - EXISTING PAD #3			
(PARKING SPACES REQUIRED BY BCZR SECTION 409.6A)			
USE	GROSS S.F.	PARKING RATE	PARKING SPACES REQUIRED PER SECTION 409.6A
STANDARD RESTAURANT	4,000	16/1,000 S.F.	64
TOTAL PARKING PROVIDED			46**

* VARIANCE 2011-0343 APPROVED ON 7/19/11 TO PER 46 PARKING SPACES IN LIEU OF THE REQUIRED 64 PARKING SPACES.

PAI #14-0134
LIMITED EXEMPTION # 16043LN
TRACKING # LIM-2016-00019
DRC # 111516H
ELEVATIONS ARE BASED UPON NAVD 1988 DATUM AS REFERENCED TO BALTIMORE COUNTY MONUMENTS 440A AND 659.

BOHLER ENGINEERING
SITE CIVIL AND CONSULTING ENGINEERING
LAND SURVEYING PROGRAM MANAGEMENT LANDSCAPE ARCHITECTURE
SUSTAINABLE DESIGN PERMITTING SERVICES TRANSPORTATION SERVICES
NEW YORK, NY NEW JERSEY, NJ NEW HAMPSHIRE, NH
BOSTON, MA SOUTH DAKOTA, SD CHARLOTTE, NC
ATLANTA, GA SOUTH FLORIDA, FL
REHOBOTH BEACH, DE
NORTHERN VIRGINIA, VA
DALLAS - FT. WORTH, TX
THE INFORMATION CONTAINED ON THIS PLAN ARE PREPARED BY AND FOR THE CLIENT AND ARE NOT TO BE USED FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN AUTHORIZATION FROM BOHLER ENGINEERING. ONLY APPROVED, SIGNED AND SEALED PLANS SHALL BE USED FOR CONSTRUCTION AND APPROVED BY THE BOHLER ENGINEERING.

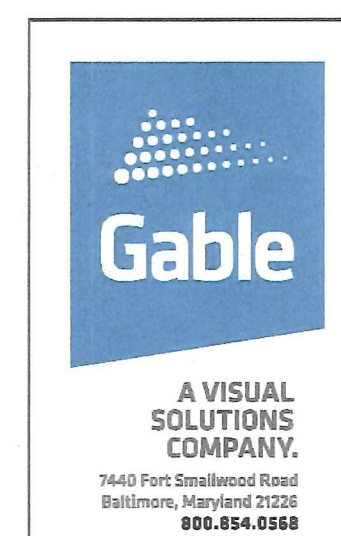
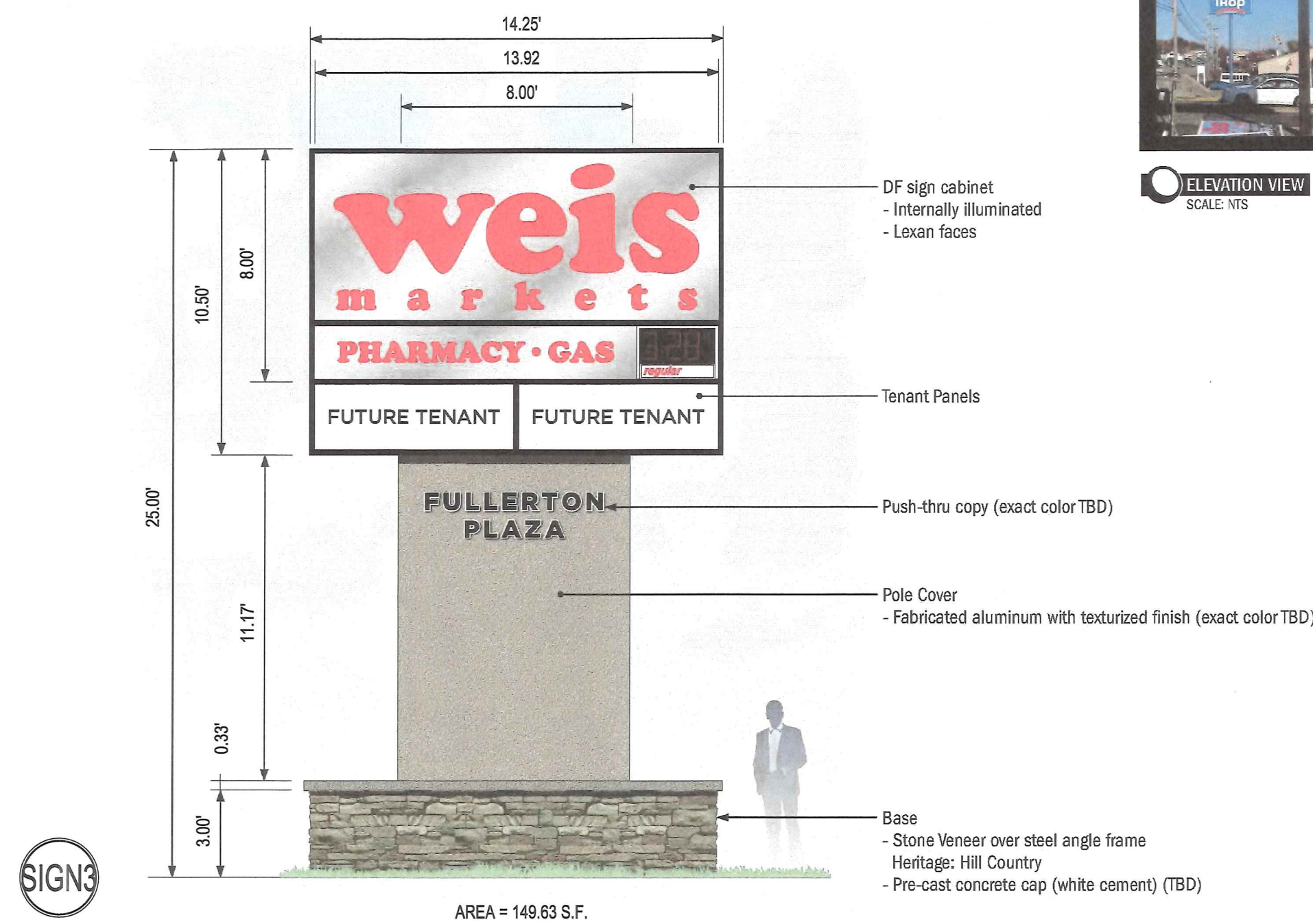
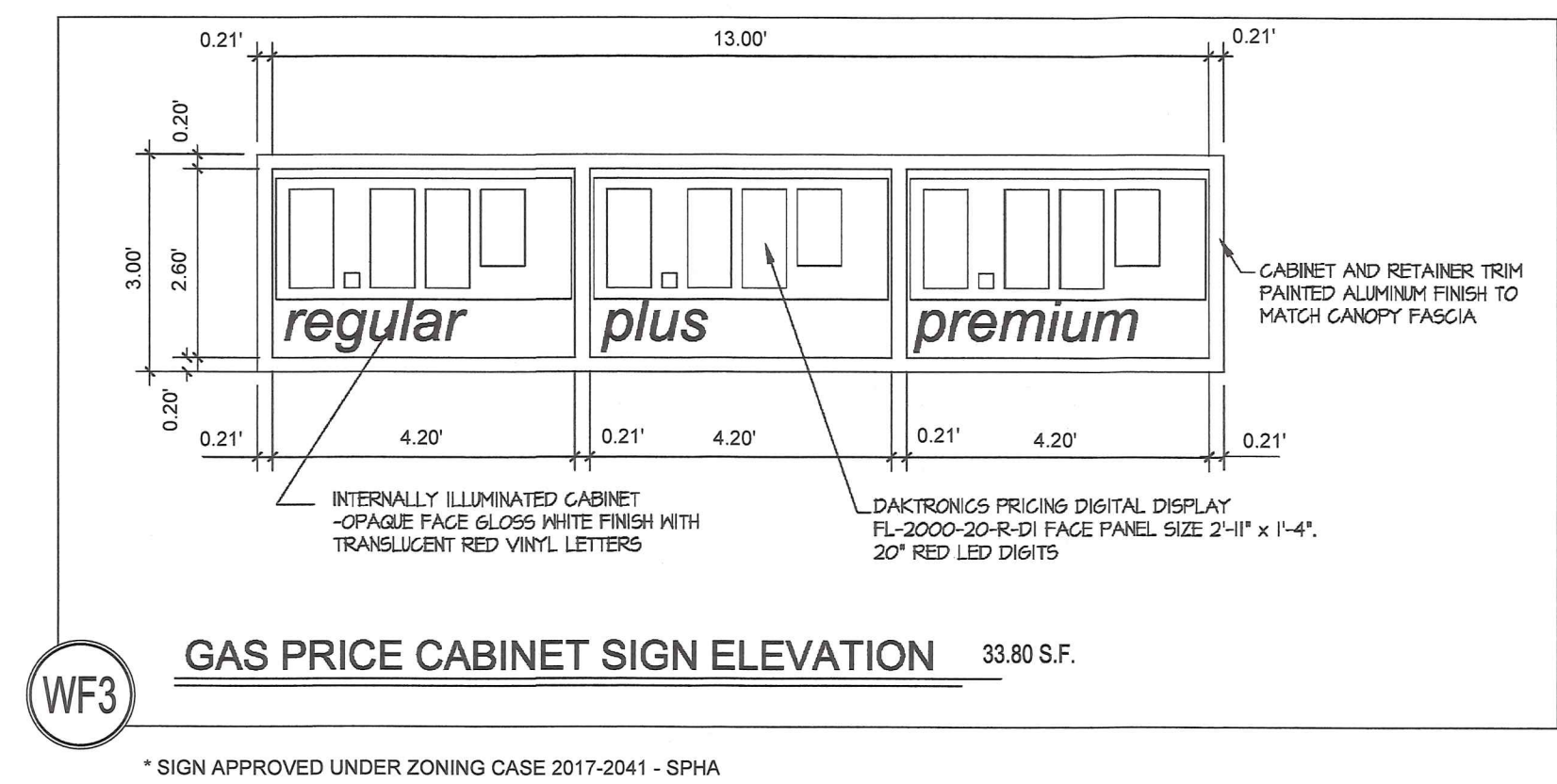
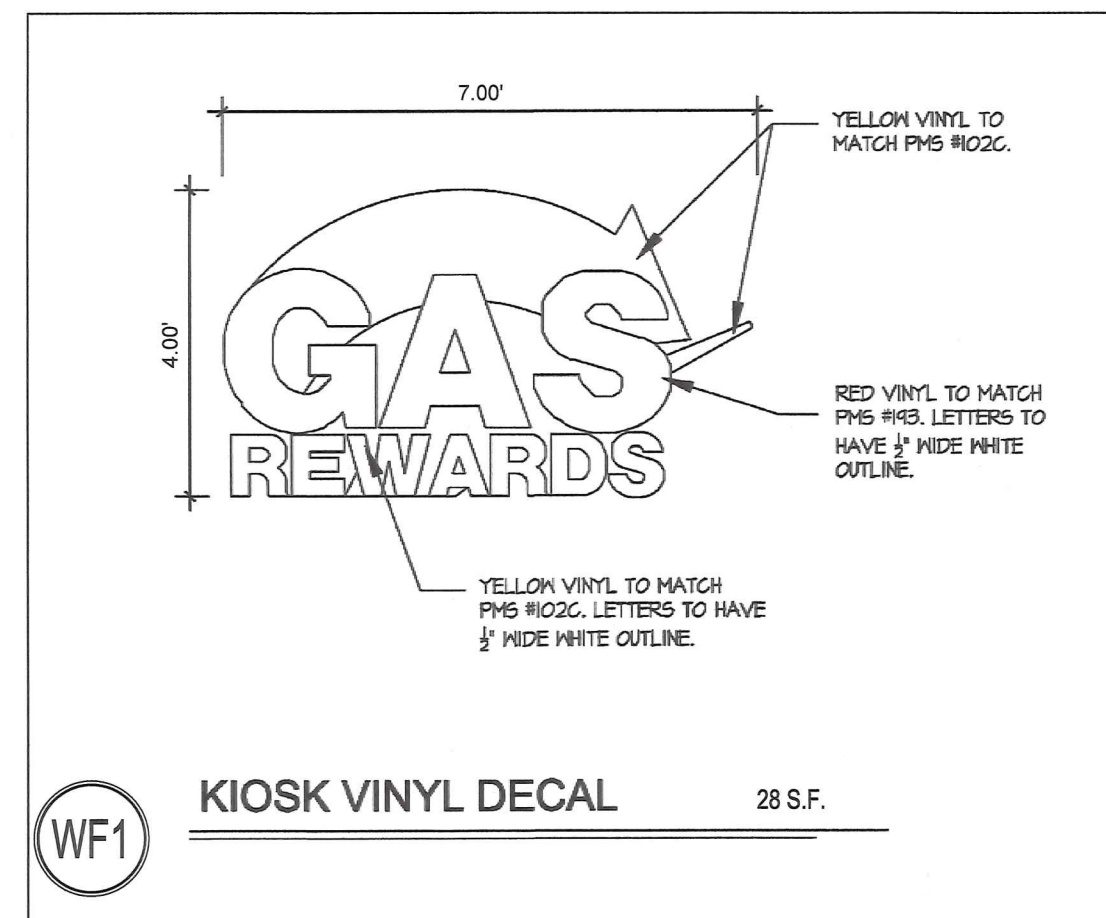
REVISIONS			
REV	DATE	COMMENT	BY

NOT APPROVED FOR CONSTRUCTION
THE FOLLOWING STATES REQUIRE NOTIFICATION BY EXCAVATORS, DESIGNERS, OR ANY PERSON PREPARING TO DISTURB THE EARTH'S SURFACE ANYWHERE IN THE STATE OF VIRGINIA, MARYLAND, THE DISTRICT OF COLUMBIA, AND DELAWARE CALL: 811
(VA) 1-800-245-4848 (PA) 1-800-245-1175 (DC) 1-800-257-7777 (VA) 1-800-652-7001 (MD) 1-800-257-7777 (DE) 1-800-282-8555

SIGN VARIANCE PLAN
FOR
KIMCO REALTY CORPORATION
LOCATION OF SITE
FULLERTON PLAZA
7923, 7925, AND 7927 BELAIR ROAD
TM 81, GRID 11, PARCEL 639
NOTTINGHAM MD 21236
BALTIMORE COUNTY

BOHLER ENGINEERING
901 DULANEY VALLEY ROAD, SUITE 801
TOWSON, MARYLAND 21204
Phone: (410) 821-7900
Fax: (410) 821-7987
MD@BohlerEng.com

M.J. GESELL
PROFESSIONAL ENGINEER
I, MICHAEL GESELL, CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 44097, EXPIRATION DATE 09/19
SHEET TITLE:
PLAN TO ACCOMPANY SIGN VARIANCE PETITION AND SPECIAL HEARING REQUEST
SHEET NUMBER:
2



PROJECT TITLE: Weis markets c/o Topco			
ORDER TITLE: Weis #206			
CITY/STATE Nottingham, MD		PHONE NUMBER 410.248.5100	
DRAWING DATE 08/01/17	SALES REP WW	PROJECT WY HY	
REVISION HISTORY			
NO.	DATE	PREV DRAWING	DESCRIPTION
1	03/01/17	8706LC	
2	05/23/17	8922LC	

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SIGNATURE: DF Illuminated Pylon		
DWG. TYPE: Concept		
PROJECT NO.	TASK NO.	QTY.
74515-5	134505	1
DWG. NO.		SHEET
2265Scott		1 of 1

PAI #14-0134
LIMITED EXEMPTION # 16043LN
TRACKING # LIM-2016-00019
DRC # 111516H
ELEVATIONS ARE BASED UPON NAVD
1988 DATUM AS REFERENCED TO
BALTIMORE COUNTY MONUMENTS
440A AND 659.

[illegible]

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IN VIRGINIA, MARYLAND, THE DISTRICT OF COLUMBIA, AND
DELAWARE CALL - 811
(WV 1-800-245-4848) (PA 1-800-242-1776) (DC 1-800-257-7777)
(VA 1-800-552-7001) (MD 1-800-257-7777) (DE 1-800-282-8555)

NOT APPROVED FOR
CONSTRUCTION

PROJECT No.:	MD149008
DRAWN BY:	DML
CHECKED BY:	MJG
DATE:	06/16/17
SCALE:	NOT TO SCALE
CAD I.D.:	EX1

PROJECT:

SIGN
VARIANCE
PLAN

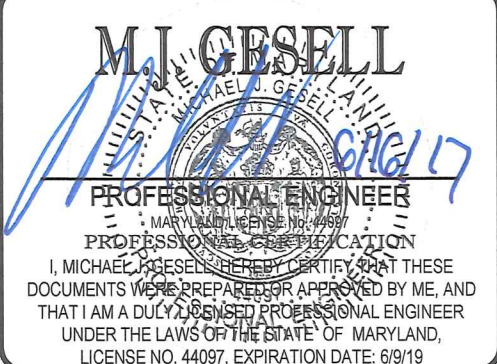
FOR

KIMCO
REALTY
CORPORATION

LOCATION OF SITE
FULLERTON PLAZA
7923, 7925, AND 7927 BELAIR ROAD
TM 81, GRID 11, PARCEL 639
NOTTINGHAM MD 21236
BALTIMORE COUNTY



**901 DULANEY VALLEY ROAD, SUITE 801
TOWSON, MARYLAND 21204**
Phone: (410) 821-7900
Fax: (410) 821-7987
MD@BohlerEng.com



SHEET TITLE:
**PLAN TO
ACCOMPANY
SIGN VARIANCE
PETITION AND
SPECIAL HEARING
REQUEST**

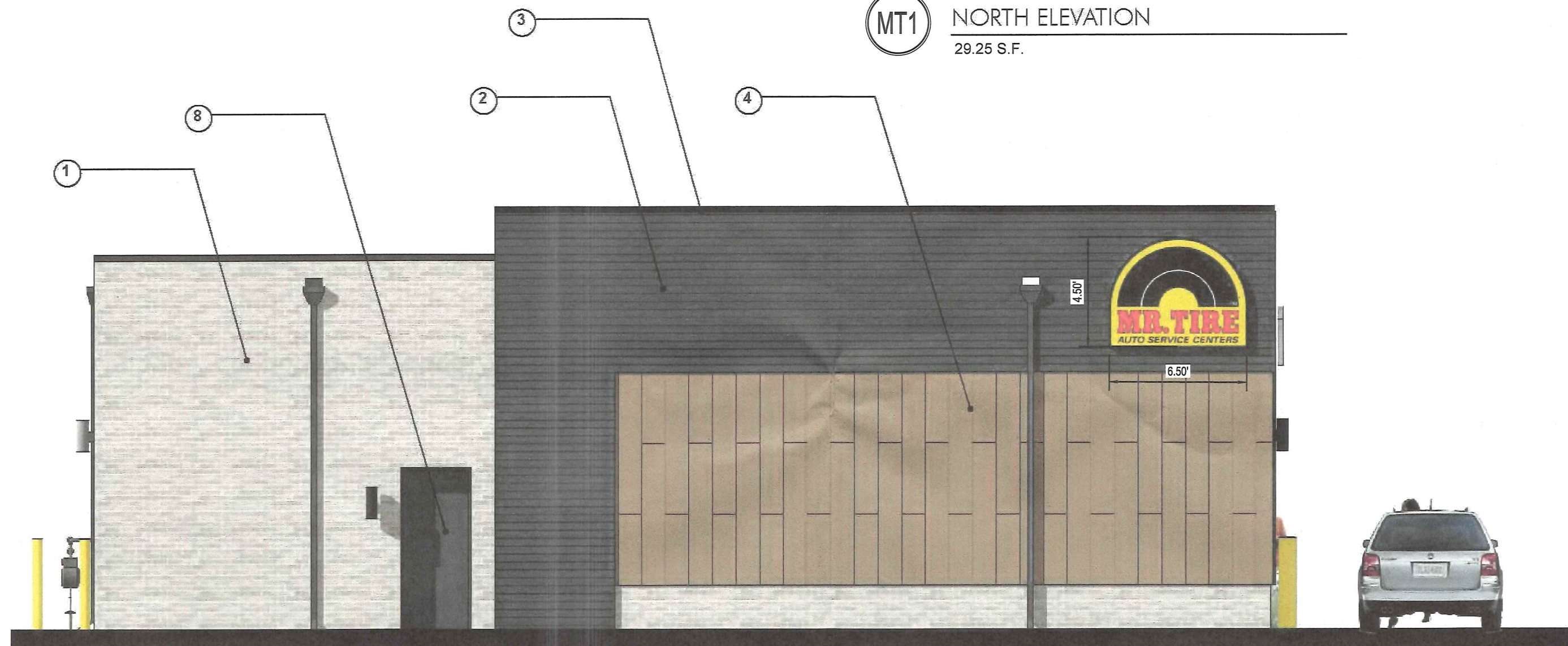
SHEET NUMBER: 3

MATERIALS LEGEND:

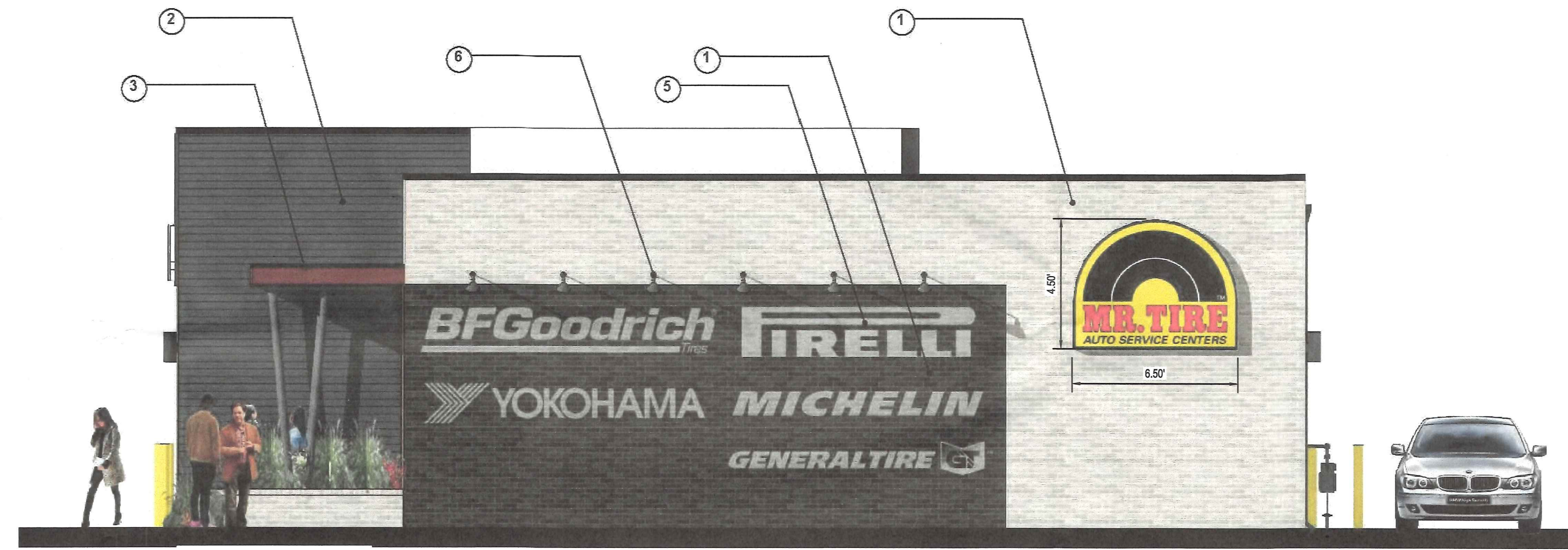
- 1 EXISTING BRICK - PAINTED
- 2 NICHHA METALLIC RIBBED CEMENT FIBERBOARD
COLOR: GUNSMOKE
- 3 METAL COPING AND FASCIA
COLOR: BRONZE AT CANOPY FASCIA
COLOR: CHARCOAL AT COPING
- 4 NICHHA METALLIC RIBBED CEMENT FIBERBOARD 18"x72"
COLOR: COPPER MOUNTAIN
- 5 CUSTOM PAINTED GRAPHIC
- 6 WALL MOUNTED LIGHT FIXTURE
- 7 CUSTOM ALUMINUM WALL MOUNTED SIGN
- 8 EXISTING STOREFRONT/DOOR; PAINTED



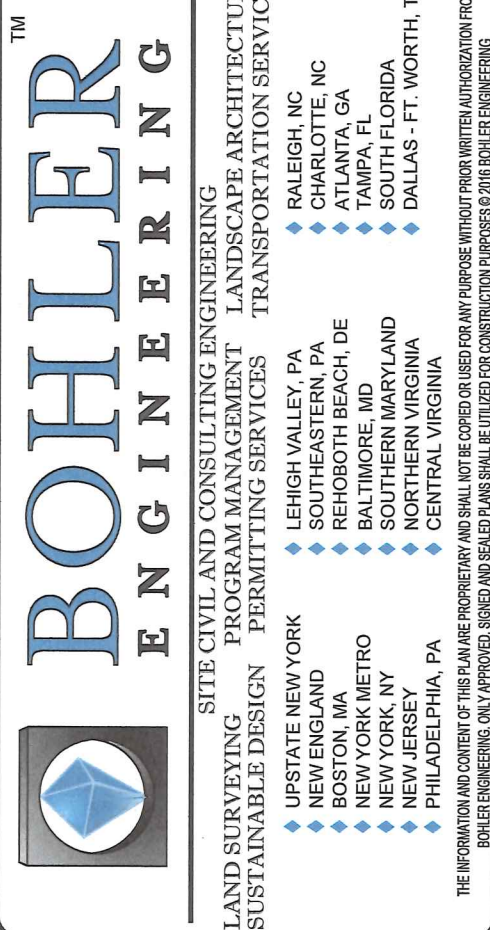
MT1 NORTH ELEVATION
29.25 S.F.



MT2 EAST ELEVATION
29.25 S.F.



MT3 WEST ELEVATION
29.25 S.F.



REVISIONS			
REV	DATE	COMMENT	BY



NOT APPROVED FOR CONSTRUCTION

PROJECT No.: MD149008
DRAWN BY: DML
CHECKED BY: MJS
DATE: 06/16/17
SCALE: NOT TO SCALE
CAD I.D.: EX1

PROJECT: SIGN VARIANCE PLAN
FOR KIMCO REALTY CORPORATION
LOCATION OF SITE
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7923, 7925, AND 7927 BELAIR ROAD
TM 81, GRID 11, PARCEL 639
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Phone: (410) 821-7900
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MD@BohlerEng.com

M. GESELL
PROFESSIONAL ENGINEER
I, MICHAEL GESELL, CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR SUPERVISED BY ME AND THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 44897, EXPIRATION DATE: 06/15

SHEET TITLE:
PLAN TO ACCOMPANY SIGN VARIANCE PETITION AND SPECIAL HEARING REQUEST

SHEET NUMBER:
4

PAI #14-0134
LIMITED EXEMPTION # 16043LN
TRACKING # LIM-2016-00019
DRC # 111516H
ELEVATIONS ARE BASED UPON NAVD 1988 DATUM AS REFERENCED TO BALTIMORE COUNTY MONUMENTS 440A AND 659.

